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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,945	09/24/2003	Christina Kay Booker	31274/82679	4790

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Barnes & Thornburg
600 One Summit Square
Fort Wayne, IN 46802

EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/669,945		BOOKER, CHRISTINA KAY	
	Examiner		Art Unit	
	Bridget Avery		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 10,11 and 15-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| ✓ 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed by applicant on March 27, 2006 is acknowledged and has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-3, 5-9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (US Patent 5,203,613) in view of Posey (US Patent 2,851,033).

Ward teaches a shopping cart including a restraining device very similar in function and structure to applicant's. The restraining apparatus has shoulder straps with an adjustable clasp, buckle or clip and ends having snap fasteners. Ward further teaches a waist belt (16A) and a crotch member (17).

Ward lacks the teaching of a chest panel.

Posey teaches a restraining apparatus for restraining a person in a seat, the restraining apparatus including: first and second shoulder straps (19, 20) positionable over the person's shoulders, each of the first and second straps (19, 20) having first and second ends; the first ends of the first and second shoulder straps (19, 20) are selectively attachable to a first horizontal support strap member (11); a chest panel (10);

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the second ends of the first and second shoulder straps (19, 20) are attached via connector links (17, 18) to the chest panel (10); first and second belt segments, each having first and second ends such that the first ends of each of the first and second belt segments (as clearly shown for belly strap 15) are attached to the chest panel (10); the first and second belt segments extend from the chest panel (10) and are positionable about the torso and a chair back (as described in column 1, lines 22-36, column 2, lines 2-11 and shown in Figures 1 and 2); and the second ends of the first and second belt segments are selectively attachable to each other via buckle (16). Re claim 5, the first and second shoulder straps are adjustable (via buckles 23, 24) with respect to the chest panel (10), as clearly stated in column 2, lines 20-22 and 35-37. Re claim 6, at least one of the first and second belt segments being adjustable (via buckle (16) with respect to the chest panel. Re claim 13, the shoulder straps (19, 20) are positioned substantially parallel to each other. Re claim 14, see first support strap (11), as described in column 1, lines 65-67 and column 2, lines 15-20.

Based on the teachings of Posey, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the restraining apparatus of Ward with an apparatus that has a chest strap to secure the user in a sitting position with safety and without fear of falling/tipping over. It would have been obvious to one having ordinary skill in the art to construct the restraining apparatus to have detachable ends instead of sewn ends to facilitate use of the restraining apparatus in several different situations. It would have been obvious to attach an adjustable crotch strap having selectively attachable ends, like the crotch strap taught by Ward in column

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5, lines 44-51, to the chest panel of the restraining apparatus of Posey to prevent the user from sliding forwards and to prevent injury. Re claim 9, the member or strap joining the crotch member to the seat and the connector links attaching the shoulder straps to the chest panel are functionally equivalent to applicant's claimed clasp, therefore, one of ordinary skill in the art would have found it obvious to substitute a clasp for a member or adjoining strap and connector links.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward ('613) and Posey ('033) as applied to claim 1 above, and further in view of Girardin (US Patent 6,547,334).

The combination of Ward and Posey teach the features described above.

The combination of Ward and Posey lack the teaching of padding.

Girardin teaches padded areas (30, 31).

Based on the teaching of Girardin, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the chest panel to include padded material to protect the user against chafing.

Response to Arguments

4. Applicant's arguments with respect to claims 1-9 and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

June 1, 2006



CHRISTOPHER P. ELLIS
SUPERVISORY PATENT EXAMINER
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